

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JOWANNA ETHERIDGE,
Plaintiff,

v.

BELK, INC.,
Defendant.

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Civil Action No.: _____

NOTICE OF REMOVAL

TO: Anna M. Carroll
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Formerly Jefferson County, Alabama Circuit Court
Case No.: CV-2020-904296

Defendant Belk, Inc., pursuant to 28 U.S.C. §§ 1332, 1367, 1441, and 1446, gives notice of the removal of this cause of action from the Circuit Court of Jefferson County, Alabama, Birmingham Division, to this Honorable Court, and as grounds therefore states as follows:

1. Plaintiff Jowanna Etheridge originally filed this lawsuit on December 21, 2020, in the Circuit Court of Jefferson County, Alabama, Birmingham Division, case number CV-2020-904296. Etheridge named Belk as a defendant.

2. The documents attached hereto as Exhibit A constitute a copy of the Circuit Court's file, including the process, pleadings, discovery, and orders served upon Belk in this action.

3. Etheridge and Belk have diverse citizenships.

4. This Notice of Removal is filed within 30 days of the date the case became removable pursuant to 28 U.S.C. § 1446(b), as amended on January 6, 2012. *See* 28 U.S.C. § 1446(b); Fed. R. Civ. P. 6(a). More specifically, Etheridge responded to Belk's discovery requests on February 17, 2021, and produced medical bills totaling over \$120,000, all of which were incurred after the accident making the basis of this lawsuit. Therefore, the case became removable on February 17, 2021.

5. Pursuant to 28 U.S.C. §1446(d), Belk has this day served a copy of this Notice by mail on Etheridge and by mail on the Clerk of the Circuit Court of Jefferson County, Alabama, Birmingham Division.

6. Venue is proper in this court for purposes of removal under 28 U.S.C. § 1441(a). By filing this Notice of Removal, Belk does not waive any of its jurisdictional objections or affirmative defenses.

DIVERSITY JURISDICTION

7. This removal is based on diversity jurisdiction. 28 U.S.C. § 1332.

8. To confer diversity jurisdiction, the amount in controversy between the parties must exceed the sum or value of \$75,000, exclusive of interest and costs, and the action must be brought “between citizens of different States.” 28 U.S.C. §1332(a)(1).

A. The Amount In Controversy Exceeds \$75,000

9. This action arises out of an incident where Etheridge came into contact with a clothing display at a Belk store. Exhibit A at 3, ¶ 5. As a result of this accident, Etheridge alleges fell to the floor and sustained injuries. *Id.*

10. The Complaint did not specify the amount in controversy, and it was not apparent from the Complaint that the amount in controversy would exceed \$75,000. Exhibit A at 3-5.

11. When suit was filed, Belk did not have any medical records or bills, and did not know the amount of damages Etheridge claimed beyond general descriptions of her injuries. Belk’s only documentation about the severity of Etheridge’s injury was a photograph of Etheridge’s hand that hit the clothing rack and Belk’s incident form, which said “customer walking towards restroom & hit her hand on clothes bar,” and indicated she was not transported to a medical

facility. Exhibit B, photograph of Etheridge's hand submitted pre-suit; Exhibit C, Belk's incident report.

12. Belk filed an Answer on January 27, 2021. Exhibit A at 22. Belk contemporaneously served discovery requests aimed, among other things, at determining the amount of Etheridge's claimed damages. Exhibit A at 34-42.

13. On February 17, 2021, Etheridge responded to Belk's discovery requests and produced medical records and bills. Those bills included over \$120,000 of medical charges incurred after the date of the accident. In an effort to avoid attaching voluminous confidential medical records to this pleading, Belk only submits Exhibit D, a CMS Payment Summary Form (with all personal information redacted) dated December 14, 2020, which shows a portion of her claimed medical expenses totaling \$81,644.00. Belk can submit all of the relevant medical bills if Plaintiff refutes the amount in controversy.

14. Since Etheridge is seeking damages for medical expenses, her discovery responses show the amount in controversy exceeds \$75,000.

B. Etheridge Is Completely Diverse From Belk

15. Etheridge is a resident of Jefferson County, Alabama. Exhibit A at 3, ¶ 1.

16. Belk is a company incorporated in Delaware. Exhibit A at 3, ¶ 2; *see also* Secretary of State Printout, Exhibit E. Belk's principle place of business is in

North Carolina. Exhibit E. Therefore, Belk is a citizen of Delaware and North Carolina. 28 U.S.C. § 1332(c)(1) (“a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has a principal place of business.”).

17. Because Etheridge’s citizenship is completely diverse from Belk’s citizenship, complete diversity exists.

WHEREFORE, premises considered, Belk respectfully asks this Honorable Court to take jurisdiction of this cause and issue all necessary orders and process in order to remove the above-referenced action from the Circuit Court of Jefferson County, Alabama.

RESPECTFULLY SUBMITTED,

DATED: March 19, 2021

/s/ Brian C. Richardson

BRIAN C. RICHARDSON

(ASB-5241-H14U)

MURRAY S. FLINT

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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2021, the foregoing was served upon the following attorney(s) of record by one or more of the following means in accordance with the Federal Rules of Civil Procedure:

- ☒ CM/ECF Electronic Filing
- ☐ Email
- ☒ U.S. Mail
- ☐ Facsimile
- ☐ Hand Delivery

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/s/ *Brian C. Richardson*
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